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**IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA**

**FOURTH APPELLATE DISTRICT**

**DIVISION TWO**

EAST END PROPERTIES, INC.,

Plaintiff and Respondent,

v.

CHRISTIE L. REED,

Defendant and Appellant.

E069110

(Super. Ct. No. CIVRS1206485)

OPINION

APPEAL from the Superior Court of San Bernardino County. Keith D. Davis,  
Judge. Affirmed.

Christie L. Reed, in pro. per., for Defendant and Appellant.

Kuzyk Law and David J. Myers, for Plaintiff and Respondent.

## I.

### INTRODUCTION

Defendant and appellant, Christie L. Reed, appeals a postjudgment order denying her motion to void judgment entered on February 27, 2017 (Judgment). The quiet title Judgment was entered in favor of plaintiff and respondent, East End Properties, Inc. (East End) concerning an REO<sup>1</sup> condominium (the Property). While this action was pending against Reed, East End acquired the Property from Bank of America (the Bank), subject to Reed's claim to title. East End substituted in place of the Bank as plaintiff. The trial court found that Reed's claim to the Property was founded on a forged deed. The court therefore granted summary judgment in favor of East End on reciprocal quiet title claims and derivative counterclaims by Reed.

Reed argues on appeal that the trial court erred in entering judgment against her. Reed further contends the trial court erred in denying her motion to void the Judgment on the grounds the court abused its discretion in denying Reed's motion to strike or tax costs; the court erred in not considering Reed's objections to East End's proposed Judgment before signing it; and the Judgment contains an improper refiling claim prohibition clause.

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<sup>1</sup> “‘REO’ stands for ‘real estate owned’ and means a property the bank acquired through foreclosure.” (*Auerbach v. Great Western Bank* (1999) 74 Cal.App.4th 1172, 1176, fn. 2.)

We reject Reed's objections to the Judgment because her notice of appeal does not state that she is appealing the February 27, 2017, Judgment. Her notice states she is appealing only the postjudgment order entered on September 5, 2017, denying her motion to void the Judgment. In addition, any such appeal of the February 27, 2017, Judgment is untimely because Reed's notice of appeal was filed on September 12, 2017, after the period to appeal the Judgment expired. We also conclude the trial court did not commit any prejudicial error in denying Reed's postjudgment motion to void the Judgment. The Judgment is therefore affirmed.

## II.

### FACTS AND PROCEDURAL BACKGROUND

In August 2012, the Bank filed a lawsuit against Reed, C.L.R. Family Trust, Manual Cortez, and David Boucher, alleging the following claims: (1) cancellation of deed; (2) quiet title; (3) cancellation of instrument—(UCC Financing Statement (UCC-1)); (4) slander of title; and (5) constructive trust.

The Bank alleged in its complaint that it acquired a fee simple interest in the Property as reflected in an attached trustee's deed upon sale, dated June 23, 2011, and recorded that same month. In November 2011, Boucher forged signatures on a grant deed to the Property, transferring title to the Property from the Bank, as grantor, to Cortez. Boucher falsely represented he was an authorized agent of the Bank. In January 2012, Cortez transferred title to the Property to Reed by grant deed. In March 2012, Reed transferred title by quitclaim deed to C.L.R. Family Trust. The Bank alleged that

defendants Boucher, Cortez, and Reed conspired to deprive the Bank of title to the Property. Boucher and Cortez also generated a false UCC-1, and a contract falsely stating that the Bank owed Cortez \$4.5 million, with a pledge of the Bank's assets in satisfaction of the fabricated indebtedness.

In October 2013, East End substituted in as plaintiff after purchasing the Property from the Bank. Reed filed a cross-complaint and, after amending it twice, filed a third amended cross-complaint (cross-complaint) against the Bank, Boucher, Cortez, Daniel Argento, East End, and Fidelity National Title Company (Fidelity). The cross-complaint includes 12 causes of action, including claims against East End for fraud, quiet title, cancellation of instrument, unfair business practices, slander of title, declaratory relief, negligence, money had and received, negligent misrepresentation, aiding and abetting breach of fiduciary duty, wanton and reckless conduct, and intentional interference with contractual relations.

East End filed a motion for summary judgment or, alternatively, for summary adjudication on the complaint and cross-complaint. Reed filed opposition and East End filed a reply. In May 2016, the court heard East End's motion. The court denied summary judgment, but as to the complaint granted summary adjudication of causes of action one and two (cancellation of deed and quiet title). The court denied summary adjudication of causes of action three, four and five (cancellation of the UCC-1, slander of title, and constructive trust). As to the cross-complaint, the court granted East End summary adjudication of causes of action one through five, seven, nine, 10, 12 and 13,

and denied summary adjudication of causes of action six and 20 (declaratory relief and intentional interference with contractual relations). The trial court found it was undisputed the Boucher grant deed was forged and cancelled the deed and subsequent deeds. The court also quieted title to the Property in favor of the Bank. As to Reed's cross-complaint, the court found that East End was entitled to retain rents from the Property because Reed had no valid claim of ownership.

In September 2016, East End filed a second motion for summary judgment or, alternatively, for summary adjudication on the complaint and cross-complaint (second summary judgment motion). Reed filed opposition, and East End filed a reply. On February 3, 2017, the trial court heard East End's second summary judgment motion. The court denied summary judgment on the complaint; denied summary adjudication on the complaint as to cause of action three regarding the UCC-1; and granted summary judgment on the cross-complaint.

On February 16, 2017, East End served Reed with a proposed judgment, which the court signed and filed on February 27, 2017. On February 27, 2017, Reed filed objections to the proposed judgment. On February 28, 2017, East End filed and the court granted a request for dismissal without prejudice of the complaint's causes of action three, four and five.

On March 6, 2017, the trial court considered and overruled Reed's objections to the Judgment entered on February 27, 2017. On May 12, 2017, Reed served a notice of entry of the judgment, which was not filed until May 31, 2017. On July 31, 2017, Reed

and East End stipulated to East End waiving costs in exchange for Reed agreeing to dismiss the unserved Doe cross-defendants without prejudice.

On August 7, 2017, Reed filed a motion to void the Judgment. East End filed opposition, and Reed filed a reply. On September 5, 2017, the trial court heard and denied Reed's motion to void the Judgment. On September 12, 2017, Reed filed a notice of appeal of the September 5, 2017, order.

### III.

#### REED'S APPEAL IS LIMITED TO AN ORDER DENYING REED'S MOTION TO VOID JUDGMENT

Reed's appeal raises numerous challenges to the Judgment. She contends the trial court failed to address her claim the Property foreclosure documents relied on by the Bank are forged and fraudulent, Reed is a bona fide purchaser of the Property, the trial court failed to consider that Reed made good faith improvements to the Property, the trial court erred in not judicially noticing evidence establishing the Bank's and East End's culpability; the court erred in not considering evidence establishing that the Bank's sale of the Property to East End was fraudulent, and the court refused to consider Reed's evidentiary objections filed in opposition to East End's summary judgment motion. We will not address these challenges to the Judgment because Reed did not timely file a notice of appeal of the Judgment. Reed appealed from the postjudgment order on September 5, 2017, denying her motion to void the Judgment. She did not state in her notice of appeal that she was also appealing the February 27, 2017, Judgment.

A notice of appeal is sufficient if it “identifies the particular judgment or order being appealed.” (Cal. Rules of Court, rule 8.100(a)(2).)<sup>2</sup> “[W]here several judgments and/or orders occurring close in time are separately appealable (e.g., judgment and order awarding attorney fees), each appealable judgment and order must be expressly specified—in either a single notice of appeal or multiple notices of appeal—in order to be reviewable on appeal.” (*DeZerega v. Meggs* (2000) 83 Cal.App.4th 28, 43; accord, *Filbin v. Fitzgerald* (2012) 211 Cal.App.4th 154, 173.) “The policy of liberally construing a notice of appeal in favor of its sufficiency (rule 8.100(a)(2)) does not apply if the notice is so specific it cannot be read as reaching a judgment or order not mentioned at all. [Citations.]” (*Filbin, supra*, at p. 173; accord, *Unilogic, Inc. v. Burroughs Corp.* (1992) 10 Cal.App.4th 612, 625 [“The rule favoring appealability in cases of ambiguity cannot apply where there is a clear intention to appeal from only part of the judgment or one of two separate appealable judgments or orders.”])

*A. Judgment Was Not Timely Appealed*

Reed’s notice of appeal is not in the least ambiguous. The notice of appeal specifically states an intention to appeal a postjudgment order. Rather than checking one of the boxes designating various types of judgments, Reed checked the box stating “Other” and wrote on the form notice that she is appealing the postjudgment “order denying motion to void judgment which terminates the case (entered on

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<sup>2</sup> Undesignated rule references are to the California Rules of Court.

September 5, 2017).” The notice of appeal does not mention the Judgment entered on February 27, 2017, perhaps because the time to appeal the Judgment had already expired.

A notice of appeal must be filed within the time period prescribed in rules 8.104 and 8.108. These deadlines are jurisdictional. “[O]nce the deadline expires, the appellate court has no power to entertain the appeal.” (*Van Beurden Ins. Services, Inc. v. Customized Worldwide Weather Ins. Agency, Inc.* (1997) 15 Cal.4th 51, 56.) Normally, “a notice of appeal must be filed on or before the earliest of: [¶] (A) 60 days after the superior court clerk serves on the party filing the notice of appeal a document entitled ‘Notice of Entry’ of judgment or a filed-endorsed copy of the judgment, showing the date either was served; [¶] (B) *60 days after the party filing the notice of appeal serves or is served by a party* with a document entitled ‘*Notice of Entry*’ of judgment or a filed-endorsed copy of the judgment, accompanied by proof of service; or [¶] (C) 180 days after entry of judgment.” (Rule 8.104(a)(1).) With the exception of limited circumstances which do not apply here, “no court may extend the time to file a notice of appeal. If a notice of appeal is filed late, the reviewing court must dismiss the appeal.” (Rule 8.104(b).)

On May 12, 2017, East End served on Reed, by mail, a notice of entry of the amended February 27, 2017, Judgment and attached a conformed copy of the Judgment (Notice of Entry). On May 31, 2017, the court filed East End’s Notice of Entry.<sup>3</sup> The 60-day period to file a notice of appeal of the February 27, 2017, Judgment began running on May 12, 2017, and expired on July 11, 2017. Reed did not file her notice of appeal until September 12, 2017. Therefore, even if we were to construe Reed’s notice of appeal liberally to encompass the February 27, 2017, Judgment, this court does not have jurisdiction to review the Judgment, because Reed’s notice of appeal was filed after the expiration of the 60-day period to appeal the February 27, 2017, Judgment. (*Unilogic, Inc. v. Burroughs, supra*, 10 Cal.App.4th at p. 625.)

*B. Period to Appeal Judgment Was Not Extended*

The time for appeal is extended if a party files a timely motion to vacate judgment. (Rule 8.108(c).) Rule 8.108(c) provides: “If, *within the time prescribed by rule 8.104 to appeal from the judgment*, any party serves and files a valid notice of intention to move—or a valid motion—to vacate the judgment, *the time to appeal from the judgment is extended* for all parties until the earliest of: [¶] (1) 30 days after the superior court clerk or a party serves an order denying the motion or a notice of entry of that order; [¶] (2)

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<sup>3</sup> East End attempted to file the Notice of Entry on May 15, 2017, but the trial court did not file it until May 31, 2017, because the court clerk improperly rejected the Notice of Entry on May 18, 2017, based on the court erroneously relying on a judgment from another case in place of the Judgment in the instant case.

90 days after the first notice of intention to move—or motion—is filed; or [¶] (3) 180 days after entry of judgment.” (Italics added.)

Reed did not file her motion to void the February 27, 2017, Judgment until August 7, 2017, which was not within the time prescribed by rule 8.104 to appeal from the Judgment. Therefore, under rule 8.108(c), Reed did not extend the time to appeal the Judgment by filing her motion to void the Judgment.

Reed is thus precluded in the instant appeal from challenging the February 27, 2017, Judgment because Reed’s notice of appeal only stated she was appealing the September 5, 2017, postjudgment order. The notice of appeal did not specify that she was also appealing the February 27, 2017, Judgment. In addition, Reed’s motion to void the Judgment was filed after the expiration of the 60-day period to appeal the Judgment and therefore did not extend the time to appeal from the Judgment. Therefore, the only issue properly before this court is whether the trial court erred in denying Reed’s motion to void the Judgment.

#### IV.

#### MOTION TO VOID JUDGMENT

Reed contends the trial court erred in denying her motion to void the Judgment (Motion) on the following grounds: (1) the Judgment awards East End costs of suit against Reed (paragraph 17 [costs award provision]) and reserves jurisdiction to enforce the Judgment (paragraph 18 [jurisdiction retention provision]); (2) the Judgment includes paragraph 11 (refiling prohibition provision), which Reed argues is improper; and (3) the

trial court failed to consider Reed's objections to East End's proposed Judgment before entering the Judgment.

"A judgment is void if the court rendering it lacked subject matter jurisdiction or jurisdiction over the parties. Subject matter jurisdiction 'relates to the inherent authority of the court involved to deal with the case or matter before it.' [Citation.] Lack of jurisdiction in this 'fundamental or strict sense means an entire absence of power to hear or determine the case, an absence of authority over the subject matter or the parties.' [Citation.]" (*Carlson v. Eassa* (1997) 54 Cal.App.4th 684, 691.) Reed has not argued or established the Judgment is void based on the lack of subject matter jurisdiction or jurisdiction over the parties, nor has she established the trial court granted relief which it has no power to grant. (*Ibid.*) Furthermore, collateral attack of a judgment, after it has become final, is disfavored. (*Ibid.*)

Reed argued in her Motion that the court entered the Judgment prematurely, before considering her objections to the proposed Judgment and before ruling on costs. Reed also asserted in her Motion that paragraph 11 (the refiling prohibition provision) and paragraph 17 (the costs award provision) must be removed from the Judgment. Reed did not cite any legal authority for voiding the Judgment, other than citing three nonbinding North Carolina cases which addressed clerical error. (*State v. Dixon* (2000) 139 N.C.App. 332, 337 [533 S.E.2d 297, 301-302]; *State v. Jarman* (2000) 140 N.C.App. 198, 201-202 [535 W.E.2d 875, 878-879]; *State v. Davis* (1996) 123 N.C.App. 240, 242-243 [472 S.E.2d 392-393-394.]

Reed did not argue in her Motion to void the Judgment that the Judgment is void or must be vacated under Code of Civil Procedure section 473, subdivision (b) or section 663. Therefore, she forfeited any argument based on these statutes or any other legal authority not cited in her Motion. (*Ochoa v. Pacific Gas & Electric Co.* (1998) 61 Cal.App.4th 1480, 1488, fn. 3 [“It is axiomatic that arguments not asserted below are waived and will not be considered for the first time on appeal.”]; accord, *Martinez v. Scott Specialty Gases, Inc.* (2000) 83 Cal.App.4th 1236, 1249.)

“An appellate court is not required to consider alleged error where the appellant merely complains of it without pertinent argument. Contentions supported neither by argument nor by citation of authority are deemed to be without foundation and to have been abandoned. [Citations.]” (*Huntington Landmark Adult Community Assn. v. Ross* (1989) 213 Cal.App.3d 1012, 1021; see also *Dills v. Redwoods Associates, Ltd.* (1994) 28 Cal.App.4th 888, 891; *Jones v. Superior Court* (1994) 26 Cal.App.4th 92, 99 [“Issues do not have a life of their own: if they are not raised or supported by argument or citation to authority, we consider the issues waived.”].) Because Reed failed to cite any binding legal authority in support of her Motion, the trial court appropriately denied Reed’s Motion. (Rule 3.1113.)

Even if Reed has not forfeited argument founded on such legal authority, Reed has not established any valid grounds for voiding the Judgment.

### A. Clerical Error

Reed has failed to establish clerical error as a valid basis for voiding the Judgment. “It is true that a court has the inherent power to correct clerical error in its records at any time so as to conform its records to the truth, but it may not amend a judgment to substantially modify it or materially alter the rights of the parties under its authority to correct clerical error. [Citation.] The difference between judicial and clerical error rests not upon the party committing the error, but rather on whether it was the deliberate result of judicial reasoning and determination. The distinction between clerical error and judicial error is whether the error was made in rendering the judgment, or in recording the judgment rendered. [Citations.]” (*Rochin v. Pat Johnson Manufacturing Co.* (1998) 67 Cal.App.4th 1228, 1238.)

Clerical error thus exists only when a judgment is not properly recorded to reflect the express judicial intention of the court. (*In re Marriage of Kaufman* (1980) 101 Cal.App.3d 147, 151.) There is no showing here that the Judgment was not properly recorded. Reed has therefore not established any clerical error correctible by voiding or amending the Judgment. Furthermore, clerical errors do not void judgments. (*Ibid.*) Reed, in effect, is asserting judicial error by arguing the Judgment contains terms which she believes are improper and substantively erroneous. Because Reed is asserting judicial errors, they cannot be corrected as clerical error.

*B. Postjudgment Ruling on Reed's Proposed Judgment Objections*

Reed argues the Judgment is void because the trial court did not consider her timely filed objections to the proposed Judgment until after the court entered the February 27, 2017, Judgment. We conclude that even if the Judgment was entered prematurely, before ruling on Reed's objections, such error was not prejudicial.

On February 3, 2017, the trial court granted summary judgment in favor of East End on East End's complaint and against Reed on her cross-complaint. On February 16, 2017, East End served a proposed amended Judgment and dismissal of the cross-complaint. On February 27, 2017, the same day the court entered the Judgment, Reed filed objections to the proposed Judgment. On March 6, 2017, the court conducted a hearing on Reed's Judgment objections, in the absence of the parties. The March 6, 2017, minute order states that the court found that Reed's objections were "unmeritorious" and "[t]he proposed amended judgment is signed by the court." The register of actions shows that the Judgment had already been signed on February 27, 2017.

Although the record shows that the trial court ruled on Reed's objections after the court had already entered the Judgment on February 27, 2017, any error was harmless because the trial court considered Reed's objections and found them to be meritless. Even if the court had ruled on the objections before entering the Judgment, the outcome would have been the same. It is highly probable the court would have overruled the objections and entered the same Judgment. This court is thus prohibited from setting

aside the Judgment due to such trial court error because the error was not prejudicial. (*F.P. v. Monier* (2017) 3 Cal.5th 1099, 1107-1109; Code Civ. Proc., § 475; Cal. Const. art. VI, § 13.)

### *C. Judgment Costs Provisions*

Reed contends the Judgment should be vacated as void because it contains an improper provision awarding costs to East End (paragraph 17). This provision, however, was properly included in the Judgment when entered because East End was the prevailing party. Furthermore, Reed's objection is moot because, after entry of the Judgment, East End agreed in July 2017 to waive costs.

Reed also argues the jurisdiction retention provision included in the Judgment (paragraph 18) renders the Judgment void. We disagree. The jurisdiction retention provision was properly included in the Judgment for the purpose of enabling the trial court to rule on and enforce the award of costs to the prevailing party. Reed's objection is now moot because, after entry of Judgment, East End agreed to waive costs, and there is no longer any need for retaining jurisdiction to enforce costs.

Even though the cost award and jurisdiction retention provisions are no longer necessary or enforceable as to East End's costs because East End waived costs, the provisions do not constitute valid grounds for voiding the Judgment.

*D. Refiling Prohibition Provision*

Reed's objection to the refiling prohibition provision (paragraph 11) also does not provide a valid ground for vacating the Judgment as void. The trial court indicated it was reluctant to include the provision in the Judgment, to the extent it might be construed as prohibiting Reed from appealing the Judgment. While there may have been some merit to this concern when the Judgment was entered, this is no longer a concern because the provision has not impaired Reed from pursuing the instant appeal. Therefore, because the provision is proper in all other regards, the provision does not constitute a valid basis for voiding the Judgment.

V.

DISPOSITION

The Judgment entered on February 27, 2017, and postjudgment order entered September 5, 2017, denying Reed's Motion, are affirmed. East End is awarded its costs on appeal.

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CODRINGTON  
J.

We concur:

RAMIREZ  
P. J.

MILLER  
J.